

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Interstate Power and Light Company	:	
and ITC Midwest LLC	:	
	:	07-0246
	:	
Joint Petition for Approval of Sale of	:	
Utility Assets Pursuant to Section 7-102;	:	
Transfer of Franchises, Licenses, Permits	:	
Or Rights to Own Pursuant to Section	:	
7-203; Transfer of Certificates of	:	
Convenience and Necessity Pursuant	:	
to Section 8-406; Approval of the	:	
Discontinuance of Service Pursuant to	:	
Section 8-508; and the Granting of All	:	
Other Necessary and Appropriate Relief.	:	

**REPLY BRIEF ON EXCEPTIONS OF THE STAFF
OF THE ILLINOIS COMMERCE COMMISSION**

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Pursuant to Section 200.830 of the Illinois Commerce Commission's ("Commission") Rules of Practice (83 Ill. Adm. Code 200.830), Staff of the Illinois Commerce Commission ("Staff"), by and through its undersigned counsel, respectfully submits its Reply Brief on Exceptions to Interstate Power and Light Company's ("IPL") and ITC Midwest LLC's ("ITC Midwest") (collectively, "Joint Petitioners") Brief on Exceptions ("BOE") filed in response to the Administrative Law Judge's Proposed Order issued on October 5, 2007 ("Proposed Order"). As Staff has articulated in its testimony, Initial Brief, Reply Brief, and Brief on Exceptions, Staff recommends that the Commission not approve the sale of IPL's Illinois-based electric transmission assets to ITC Midwest (the "proposed Transaction") as it does not meet the public convenience criteria specified in Section 7-102 of the Illinois Public Utilities Act (the "Act"). Instead,

Staff recommends that the Commission approve Appendix A to Staff's Brief on Exceptions as its final Order in this proceeding.

I. ARGUMENT

A. The Iowa Utilities Board's Order Should Not be Considered by the Commission in the Instant Proceeding

Joint Petitioners argue that the Commission should consider the Iowa Utilities Board's Order "as a source of guidance" when making a determination regarding the proposed Transaction and quote certain language from that Order. (Joint Petitioners BOE, pp. 9-12.) Staff believes that Joint Petitioners' suggestion to the Commission is misplaced. The Order of the Iowa Utilities Board, as well as the final decision by any other Public Utility Commission or Board, is neither relevant nor material to the Commission's final determination in this proceeding. Moreover, the Commission's source of guidance must instead be the record evidence in *this* proceeding as it relates to the public convenience criteria in Section 7-102 of the Act, under which the Legislature has granted the Commission broad discretion. (Staff Initial Brief, pp. 28-34.)

Similarly, Joint Petitioners attempted to introduce information regarding both the Iowa and Missouri regulatory decisions in their Initial and Reply Briefs. Staff objected to those attempts, as well. On October 5, 2007, the Administrative Law Judge ("ALJ") ruled that, at that time, the ALJ would "not consider decisions made by any other Public Utility Commission or Board." (ALJ Notice, p. 1.) Ten days later, Joint Petitioners boldly included the same information in their BOE.

Section 200.610(a) of the Commission's Rules of Practice (83 Ill. Adm. Code 200.610(a)) provides that,

- a) In all proceedings subject to this Part, irrelevant, immaterial or unduly repetitious evidence shall be excluded. [5 ILCS 100/10-40]

Relevant evidence is that evidence which tends to prove or disprove a fact of consequence in the proceeding.¹ Material evidence is that evidence having some logical connection with the facts of consequence or the issues in the case.² Under these well-established definitions, Joint Petitioners' references to the Iowa Utilities Board and Missouri Public Service Commission decisions are neither relevant nor material to the Commission's determination pursuant to the public convenience criteria in Section 7-102 of the Act. The Iowa and Missouri decisions in no way tend to prove that the public will be inconvenienced by the proposed Transaction in Illinois, under the standards established by Illinois law. Accordingly, these references should be excluded and ignored by the Commission.

Furthermore, it is unclear in what way the Iowa and Missouri decisions could or should "guide" the Commission in this proceeding. Joint Petitioners have not argued that the decisions should be used for collateral estoppel or res judicata purposes or to demonstrate the existence of a particular rule or principle of law. Rather, Joint Petitioners seem to offer these decisions as examples of favorable outcomes reached by other public utility commissions facing similar issues.³ However, the Commission is in no way bound by the decisions of other states' administrative agencies, and the Iowa and Missouri decisions have no bearing here. Moreover, Joint Petitioners have failed to demonstrate any meaningful similarities among the Iowa, Missouri, and Illinois cases.

¹ *Voykin v. Estate of DeBoer*, 192 Ill. 2d 49, 57, 733 N.E.2d 1275, 1279 (2000).

² *In re Elias*, 114 Ill. 2d 321, 334, 499 N.E.2d 1327, 1332 (1986).

³ Staff referenced a New York Public Service Commission Order in its Response to Joint Petitioners' Motion in Limine as a matter of law. In contrast, Joint Petitioners request that the Commission consider the out-of-state decisions as findings of fact. Thus, any parallel between the two as Joint Petitioners argue (Joint Petitioners BOE, pp. 10-11) is inapt.

Joint Petitioners have neither demonstrated in what ways the Iowa and Missouri statutes are similar to the applicable Illinois statute nor in what ways the evidentiary records in the various proceedings are at all the same. For these reasons, the Iowa and Missouri decisions are useless as a guide to the Commission's determination in Illinois.

B. Joint Petitioners Did Not Meet Their Burden of Proving that the Risks Outweigh the Benefits of the Proposed Transaction

Joint Petitioners conclude that the public will be inconvenienced by the proposed Transaction and that the Proposed Order correctly recommends approval of the Joint Petition. (Joint Petitioners BOE, pp. 2-9, 31.)⁴ Staff disagrees with Joint Petitioners' conclusions and disputes the arguments advanced in support of those conclusions.

Joint Petitioners argue that approval of the proposed Transaction is appropriate because it accords with both state and federal energy policy. (Id., p. 2.) They further argue that since no other party to the proceeding questioned the benefits of the proposed Transaction other than Staff, approval is appropriate. (Id., pp. 2-3.) Joint Petitioners suggest that Staff's questioning of the benefits of the proposed Transaction is inappropriate because only 126 miles of the total transmission line miles that ITC Midwest and its affiliates will own and operate are the subject of the instant proceeding. (Id., p. 3.) Furthermore, they repeatedly suggest that since the Federal Energy Regulatory Commission ("FERC") has exclusive jurisdiction over certain aspects of ITC Midwest's finances, the Commission has a limited role to play in the approval of the proposed Transaction. (Id., pp. 2, 3-5, 5-9, 12-19, 28, 31.)⁵ Joint Petitioners

⁴ Joint Petitioners apply an incorrect "public interest" standard at page 31 of their BOE; the appropriate standard is "public convenience" pursuant to Section 7-102 of the Act.

⁵ Attachment C to Joint Petitioners' BOE is ITC Midwest's September 18, 2007, Section 204 FERC filing. Attachment C is neither material nor relevant to the Commission's determination and should be ignored.

unabashedly argue that since Staff witness Linkenback stated that he had no concerns regarding ITC Midwest's ability to operate and maintain the transmission assets that are the subject of this proceeding, the Commission should approve the proposed Transaction. (Id., pp. 14, 24.)

Joint Petitioners arguments are misleading and neither relevant nor material to the Commission's determination pursuant to Section 7-102 of the Act. The standard for Commission approval of the sale of public utility assets pursuant to Section 7-102 of the Act is whether "the public will be inconvenienced thereby." Because the Legislature recognized that it would be impractical to provide precise criteria to be considered in every sale of public utility assets, it gave the Commission broad discretion to decide whether a proposed transaction should be approved when it set the public convenience standard for approval. The public convenience standard in Section 7-102 of the Act has been interpreted and applied in a significant number of Illinois Appellate and Supreme Court decisions and Commission Orders. As a result, the Commission has adopted a balancing test of competing interests, which leads to approval when the evidence establishes that the public will likely not be harmed by, or is indifferent to, any likely outcome. (Staff Initial Brief, pp. 28-34; Staff Reply Brief, pp. 2-3; Staff BOE, pp. 2-3.)

Under the Commission's balancing test, Joint Petitioners' purported benefits of the proposed Transaction are simply outweighed by the increased rates ITC Midwest seeks and the concern that approval of the proposed Transaction would leave ITC Midwest and its customers vulnerable, as ITC Midwest's ability to provide safe, efficient, and reliable service would be subject to FERC's rate setting policies and the whims of ITC Holdings Corp. ("ITC Holdings"), ITC Midwest's parent company. (Staff Reply Brief,

p. 4.)

Joint Petitioners have provided a handful of “advantages” of the proposed Transaction. However, the alleged “advantages” of the proposed Transaction are highly dubious and, at best, unquantifiable and entirely subjective. To wit:

Joint Petitioners claim that the proposed Transaction would result in the transfer of IPL’s transmission facilities to a solid corporate citizen and a top operator and that ITC Midwest is committed to the reliability and regional expansion of the transmission grid, and advancing the future of the renewable energy and alternative fuels industries in the Midwest. (Joint Petitioners Initial Brief, p. 3.) However, this is only a benefit to the extent that current transmission owner, IPL, is not a solid corporate citizen and a top operator. Joint Petitioners have not even suggested, let alone provided, evidence to demonstrate as much. Nor have they provided any valid measure of the value of such a benefit even if IPL’s corporate citizenship were questionable.

Joint Petitioners also claim that the proposed Transaction would result in an independent transmission company with a regional view, a proven track record in providing reliable transmission service, and capital available to invest in needed infrastructure;⁶ as such, they claim that the proposed Transaction would advance the efficiency, openness, and fairness of wholesale energy markets. (*Id.*) Again, Joint Petitioners did not even suggest that IPL does not have a regional view and a proven track record of service reliability and capital investment. Furthermore, Joint Petitioners provided no evidence of the alleged value of an independent transmission company. Indeed, to the extent there is a benefit, it is offset by the fact that **ITC Midwest is**

⁶ Of course, Staff disputes that ITC Midwest will be able to raise capital to invest in needed infrastructure. (Staff Initial Brief, p. 36.)

seeking a 100 basis point adder to the cost of equity in its FERC rates as compensation **specifically for its status as an independent transmission company.** (ICC Staff Exhibit 1.0, p. 6.) That is, rate payers will already be paying for this “benefit.” Thus, it offers no net benefit at all.

Joint Petitioners further claim that the proceeds from the proposed Transaction would enable IPL to move forward with plans to invest in generation and renewable resources in the Midwest. (Joint Petitioners Initial Brief, p. 3.) Joint Petitioners provided no evidence to indicate that this will benefit any rate payers, let alone Illinois rate payers, who are the concern of this Commission. As explained in Staff’s Brief on Exceptions, IPL could use the proceeds from the proposed Transaction to buy out another investor’s interest in a pre-existing facility in another State, which would benefit neither rate payers in that State nor those in Illinois. (Staff BOE, pp. 19-20.)

Finally, Joint Petitioners claim that the proposed Transaction would preserve the transmission-related jobs of current IPL employees and provide significant financial incentives for those desiring to transfer to ITC Midwest. (Joint Petitioners Initial Brief, p. 3.) Again, this is only a benefit to the extent that IPL would not preserve these jobs. However, once again, Joint Petitioners did not even suggest that IPL has any intention of eliminating these jobs. Indeed, the facilities cannot operate without employees. Thus, this is no benefit at all.

In contrast to the speculative “benefits” of the proposed Transaction proffered by Joint Petitioners, Staff has highlighted at least one very real and measurable cost: the increased cost of capital ITC Midwest seeks before FERC is contrary to the public convenience. IPL’s weighted average cost of capital is 9.75%. (ICC Staff Exhibit 1.0, p.

7.) Assuming the same cost of debt, ITC Midwest's weighted average cost of capital would be 11.05%. Thus, the increased cost of capital that ITC Midwest is seeking alone would carry a cost of approximately \$5.8 million each year.⁷

In addition, the public will not be inconvenienced by the financial risk to ITC Midwest and its customers related to ITC Midwest's dependence on FERC's rate setting policies and the whims of ITC Holdings. While the cost of this risk is more difficult to quantify than the increased cost of capital discussed above, it is no less real. As Staff explained in its Reply Brief, even if ITC Midwest were to receive favorable rate treatment from FERC, ITC Midwest will remain under the control of ITC Holdings, which is highly leveraged and has a Moody's credit rating of only one notch above junk status. (Staff Reply Brief, pp. 4-5.) ITC Holdings' own management admits that ITC Holdings' high degree of leverage could impair its ability to raise additional capital and to adapt to changing business and economic conditions. In addition, Joint Petitioners' own documents indicate that ITC Midwest will need to raise external capital, but might not be able to do so due to the FFO interest coverage restriction in ITC Holdings' Indenture and ITC Holdings' marginal financial condition. (Staff Initial Brief, p. 36.) There are simply no barriers preventing ITC Holdings from draining ITC Midwest of funds that it might need to provide safe, adequate, reliable, and least-cost service.

The only assurance the Commission has that ITC Midwest will not issue excessive dividends or otherwise refrain from using funds that are needed by the general public, is Joint Petitioners' claim that they will not do so. Joint Petitioners argue that they have incentive to invest in ITC Midwest and to avoid "pillaging" ITC Midwest

⁷ Assuming a rate base of \$450 million and a capital structure of 60% equity (\$270 million) and 40% debt (\$180 million) for ITC Midwest. (Exhibit PAW 7.0, pp. 26-28.)

because of the generous return they get from FERC on any investments they make in the system. However, that “incentive” is paid for by rate payers through higher rates. Moreover, ITC Midwest’s formula rate process proposal at FERC would pass the cost of imprudent transmission investments through to rate payers. Furthermore, that incentive provides no guarantee that ITC Holdings will not drain ITC Midwest’s resources during an economic downturn. Thus, that incentive is as valuable as insurance that only pays claims during conditions under which there are not likely to be any claims.

Joint Petitioners had the burden of proof in this proceeding, as the parties who were seeking affirmative relief before the Commission. (Staff Initial Brief, p. 31.) Since Joint Petitioners clearly have not met that burden, the Commission should not approve the proposed Transaction.

C. The Financial Condition Imposed in the Proposed Order and Opposed by Joint Petitioners is Unlikely to Survive Scrutiny on Appeal

Joint Petitioners oppose, on both factual and legal bases, the financial condition of approval imposed by the Proposed Order. (Joint Petitioners BOE, pp. 12-25.) While Staff disagrees with Joint Petitioners’ factual challenges, Staff remains concerned that if Joint Petitioners appeal the imposition of the financial condition and prevail, all that will remain is Commission approval of the proposed Transaction, an outcome that would be contrary to the public convenience criteria pursuant to Section 7-102 of the Act.

Joint Petitioners argue that the Commission’s review of the financial issues in the instant proceeding should have ended merely with an analysis of whether ITC Midwest was capable of financing the proposed Transaction. (*Id.*, pp. 12-16.) Staff believes that if the Commission were to conclude its review after determining only whether ITC

Midwest had the funds to purchase IPL's Illinois transmission assets, the result would be incomplete and an abuse of the discretion afforded it by the Legislature. Indeed, such an approach would amount to hollow regulation, as the ability to make the purchase is effectively self-regulating, since a seller would simply walk away from a transaction if the buyer could not raise the necessary funding. Rather, the issue before the Commission is much larger than the one framed by Joint Petitioners: the Commission must ensure that subsequent to the purchase of the assets there will be adequate resources to operate and maintain those assets without significant adverse consequences to ITC Midwest or its customers. (Tr., pp. 168-169.)

As Staff witness McNally has stated, ITC Holdings has a highly-leveraged capital structure with a Moody's credit rating that currently stands only one notch above junk status. Consequently, the marginal financial health of ITC Holdings does not provide an adequate margin of safety to ensure that ITC Midwest will be able to operate and maintain the transmission assets it proposes to purchase from IPL. A serious risk exists that ITC Holdings will drain ITC Midwest's resources beyond what it could afford to pay while maintaining reliable transmission service. ITC Midwest's primary obligation is to employ its capital in fulfilling its duty to render reasonable and adequate service, not infusing capital into its financially weak parent. The public will not be inconvenienced if it fails to receive safe, reliable, and least-cost utility service pursuant to Section 1-102 of the Act. (ICC Staff Exhibit 4.0; ICC Staff Exhibit 5.0R; Staff Motion for Reconsideration; Staff Reply to Response to Motion for Reconsideration.)

Staff witness McNally's concerns were reinforced at the September 4, 2007, evidentiary hearing in this matter. At that time, the ALJ echoed Staff's concerns that

ITC Holdings would be in a position to drain ITC Midwest of its capital. She indicated that “Staff has had many situations where they’ve uncovered holding companies **pillaging** the regulated utility.” (Tr., p. 243, emphasis added.) The ALJ continued by stating that “sometimes Staff has uncovered these situations where it was really too late to do anything about it.” (*Id.*) As these comments indicate, Joint Petitioners’ arguments that Staff witness McNally’s concerns are speculative and unsupported are meritless and should be disregarded.

While Staff’s concerns regarding the financial strength of ITC Midwest culminated in its recommendation that the Commission not approve the proposed Transaction, the Proposed Order recommends approval with the imposition of a financial condition. (Proposed Order, pp. 21-22.) Joint Petitioners object to the imposition of the financial condition on various legal grounds. (Joint Petitioners BOE, pp. 16-25.) Staff is concerned that if Joint Petitioners appeal the Commission’s financial condition and prevail, the result will be unconditioned financial approval of the proposed Transaction, which, in Staff’s opinion, would not convenience the public.

The stated intent of the financial condition is to establish a barrier “to hinder the ability of ITC Holdings to gain excessive dividends at the expense of the general public that ITC Midwest serves.” (Proposed Order, p. 21.) Although Staff believes that the proposed financial condition is well-intentioned, Staff questions whether the Commission has jurisdiction to restrict ITC Midwest’s payment of dividends to its parent, however desirable such a limitation might seem. Staff’s understanding is that Schneidewind v. ANR Pipeline Co., 485 U.S. 293, 308, 310 (1988), stands for the proposition that the financial relationship between ITC Midwest and ITC Holdings is

within the exclusive purview of FERC. In light of that authority, Staff questions whether the Commission may regulate that relationship by attempting to limit the conditions under which ITC Midwest may in the future pay dividends to its corporate parent. (Staff BOE, p. 3.)

The effect of overturning a Commission-imposed condition could have a significant effect on the underlying Order approving the proposed Transaction. Section 10-201(e) of the Act allows a reviewing court to affirm or reverse an Order of the Commission “in whole or in part”; under former law, a court was required to either affirm a Commission Order in its entirety or reverse the Order in its entirety. (See Citizens Utilities Co. v. Illinois Commerce Comm’n, 157 Ill. App. 3d 201, 205 (1987).) Accordingly, if the Commission were to impose an invalid dividend-payment restriction as a condition of its approval of the proposed Transaction, the reviewing court could, depending on the record before it, simply reverse that portion of the Commission’s Order, while affirming the remainder of the Order. In effect, the court could strip out the invalid part of the Commission’s decision and allow the rest of the decision to stand. In that event, if the Commission’s Order did not point to a separate impediment to the proposed Transaction,⁸ the court could uphold the proposed Transaction without allowing the Commission an opportunity to reconsider the matter. (Staff BOE, pp. 3-4.)

Therefore, Staff recommends that the financial condition in the Proposed Order not be imposed on ITC Midwest and that the Commission, instead, not approve the proposed Transaction. However, if the Commission determines that the proposed Transaction should be approved subject to a financial condition, Staff cautions against

⁸ Of course, Staff believes there are several separate impediments that warrant rejection of the proposed Transaction that should also be noted in the final Order.

the imposition of the financial condition contained in the Proposed Order. Despite the Proposed Order's well-intentioned effort to create a barrier to protect ITC Midwest, the proposed financial condition suffers from several significant deficiencies that render it unsuitable. Most of the deficiencies can be corrected by making the following changes to the financial condition in the Proposed Order:

For a period of five years from the date of a final Order in this docket, ITC Midwest shall not, in any given period, issue dividends, or otherwise transfer cash through loans, advances, investment, or other means that would divert ITC Midwest's moneys, property, or other resources, to any its affiliates in an amount that is greater, in aggregate, than the interest expense incurred in that period on the debt ITC Holdings issues to finance the purchase of IPL's transmission assets average dividend from ITC Midwest to ITC Holdings during the most recent two-year period, excluding special dividends, if ITC Holdings receives an issuer credit rating of BB+ or lower from Standard and Poor's, or Ba1 or lower, from Moody's Investor Service. If an issuer rating is not assigned, a senior unsecured debt rating shall be substituted.⁷ Should ITC Holdings fall to, or below, the investment grades credit ratings described above during the five (5) year period herein, the condition regarding dividends and other cash transfers ~~issuance~~ shall extend for an additional three (3) years from the time ITC Holdings regains the investment grade status described herein, or until five (5) years from the date of a final Order in this docket, whichever is longer. ITC Midwest is also prohibited from entering into any affiliated interest transaction subject to Commission approval pursuant to Sections 7-101, 7-102 or 7-103 of the Public Utilities Act without Commission approval.

(Id., pp. 7-9.)

Joint Petitioners attempt to create doubt that the Commission has the authority to impose a financial condition in the instant proceeding by suggesting that only parties to the proceeding may introduce conditions and only if that occurs on the record. (Joint Petitioners BOE, pp. 19-25.) Staff believes that Joint Petitioners are attempting to create doubt where none exists. Putting aside federal preemption, State law authorizes the Commission to introduce whatever condition it deems appropriate in order to

address contested issues that are part of the evidentiary record. The condition itself need not have been proposed by Staff or any party to the proceeding. That is what occurred in the instant proceeding: the record established a problem with the proposed Transaction, and the Proposed Order imposed a financial condition to address that shortcoming.

Excepting where preempted by Federal law, State law clearly grants the Commission the authority to impose conditions upon Joint Petitioners. Section 7-102 of the Act grants the Commission the authority to “...make such order in the premises as it may deem proper and as the circumstances may require, **attaching such conditions as it may deem proper...**” (Emphasis added.) Furthermore, the courts have acknowledged the “broad discretion” the Legislature granted the Commission in its determination regarding whether a proposed transaction should be approved.⁹ Accordingly, any suggestion that, where not preempted by Federal law, the Commission cannot impose its own condition of approval should be disregarded.

D. The Reporting Condition Proposed by Joint Petitioners Does Not Provide Sufficient Protection to ITC Midwest to Rectify the Shortcomings of the Proposed Transaction

Joint Petitioners claim that the reporting condition they proposed would satisfy any concerns identified in the Proposed Order. (Joint Petitioners BOE, pp. 25-28.) However, it is important that the Commission fully appreciate that the condition to which Joint Petitioners are *volunteering* is of little to no value. Indeed, the Proposed Order correctly found that “such reporting, all by itself, contains no incentive for ITC Midwest not to issue excessive dividends or otherwise refrain from using funds that are needed

⁹ Illinois Power Company v. ICC, 111 Ill. 2d 505, 511 (1986).

by the general public.” (Proposed Order, p. 21.) As Staff explained in its response to ITC Midwest’s Data Request 5.1, any condition imposed must set standards of performance and include consequences for failure to meet those standards. Joint Petitioners’ proposed condition contains neither. (ITC Midwest Cross Exhibit 1.0.)

Significantly, it is the portions of the Proposed Order’s conditions that represent “teeth” to which Joint Petitioners object; they object to a dividend restriction and they object to the verification of reports, which would hold ITC Midwest’s Chief Financial Officer responsible for inaccurate or incomplete reporting. Alternatively, Joint Petitioners’ proposed reporting condition sets no standards of performance and includes no consequences for failure to meet those standards; it merely provides information, most of which is publicly available and, thus, already at Staff’s disposal anyway. It is easy to agree to something that would take no extra effort and for which there are no consequences; it is much more difficult to agree to abide by certain standards or face penalties for failure to do so. Joint Petitioners are seeking the former; rate payers deserve the latter.

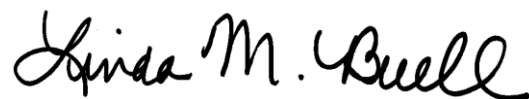
Staff more fully addressed this issue in its Initial Brief. (Staff Initial Brief, pp. 39-40.) Nevertheless, it should be noted that once again, despite Staff’s further clarification of the matter (Staff Reply Brief, pp. 6-7), Joint Petitioners continue to misrepresent Staff witness McNally’s response to ITC Midwest’s Data Request 5.1, by conflating financial reporting, which Joint Petitioners’ proposed condition would require, with financial standards, the lack of which is a major shortcoming of that condition. (Joint Petitioners BOE, p. 25.) Joint Petitioners have continuously engaged in such misrepresentations throughout this proceeding. Staff already identified a handful of documented examples

of Joint Petitioners' misrepresentations in its Reply Brief and its October 2, 2007, Motion to Strike. Thus, Staff advises the Commission to consider whether the ownership of Illinois utility assets by a company that would bring such an approach to proceedings before the Commission would convenience the public.

II. CONCLUSION

Staff has fully demonstrated in its testimony and briefs in this proceeding that the Commission should not approve the sale of IPL's Illinois-based electric transmission assets to ITC Midwest because the proposed Transaction does not meet the public convenience criteria specified in Section 7-102 of the Act. For all of those reasons, Staff respectfully requests that its recommendations be adopted in this proceeding and that the Proposed Order be modified as set forth in this Reply Brief on Exceptions and Staff's Brief on Exceptions by approving Appendix A to Staff's Brief on Exceptions as its final Order in this proceeding.

Respectfully submitted,

A handwritten signature in black ink, reading "Linda M. Buell". The signature is written in a cursive, flowing style.

LINDA M. BUELL

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